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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,490	10/16/2003	Robert M. Schurter	010121-9897	9034
23409	7590	12/23/2004	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			WAKS, JOSEPH	
			ART UNIT	PAPER NUMBER
			2834	

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/687,490	SCHURTER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph Waks	2834	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 11, 14-31, 33 and 34 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Specification*

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the first and the second distal edge.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

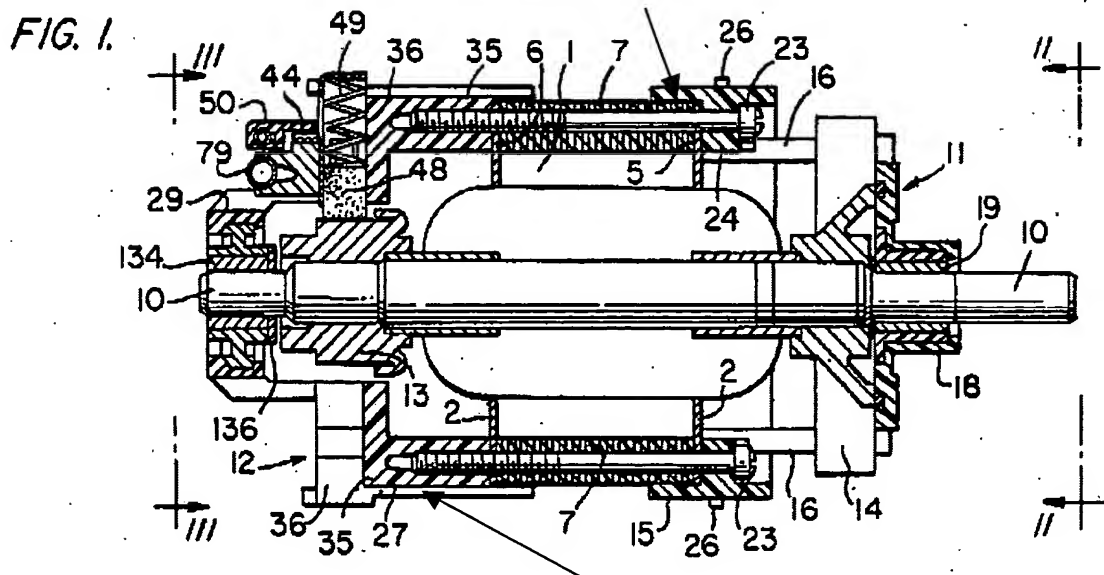
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 8, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris et al. (US 4,498,230).

Harris et al. disclose invention as claimed: a stator including a stator core 1 having a generally cylindrical surface, a rotor 9, a first intermediate portion 15 partially covering the generally cylindrical surface of the stator, a first end cap 11 coupled to the first intermediate portion, a second intermediate portion 27 partially covering the generally cylindrical surface of the stator and being spaced from the first intermediate portion, a second end cap 12 coupled to the second intermediate portion, a fastener 23 coupling the first and second intermediate portions and the first and second end caps and extending through the first and second caps, an aperture 38.

Re claim 8, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.



### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 6, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. (US 4,498,230) in view of McDonald (US 4,603,273).

Harris et al. disclose the electric machine essentially as claimed. However, Harris et al. do not disclose at least one of the first and second intermediate portions including a tab.

McDonald discloses at least one of the intermediate portions 28 include a tab 40 including an aperture for the purpose of supporting the motor in place.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the machine as taught by Harris et al. and to provide the tab including aperture as taught by McDonald for the purpose of supporting the motor in place.

5. Claims 26-28, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald (US 4,603,273).

McDonald discloses assembly essentially as claimed. However, McDonald does not disclose the second housing portion including the second tab.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the assembly as taught by McDonald and to provide the second housing portion with the second tab for the purpose of supporting the assembly from both ends since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Re claims 26-28, 32, McDonald disclose the assembly essentially as claimed. Claims 26-28 that merely recite connecting and using the disclosed features together are inherent to the disclosed structure.

***Allowable Subject Matter***

6. Claims 10, 11, 14-31, 33 and 34 are allowed.

Re claims 10 and 11, the reasons for allowability of claims 10 and 11 are indicated in previous Office action.

Re claims 14-24 and 26-29, the feature of the first housing portion including the first tab disposed adjacent to the first end of the stator and projecting from the first housing interior and the second housing portion including the second tab disposed adjacent to the second end of the

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stator and projecting from the second housing interior, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

Claims 12, 13, 25, 29-31, 33, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Re claims 12 and 13, the feature of the support member that includes an exterior strap connecting and or spacing apart the first intermediate portion and the second intermediate portion, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

Re claims 25 and 29, the feature of the tab comprising a positioning tab abutting against the stator, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

Re claims 30, 31, 33 and 34, the method of assembling an electric machine including steps of punching a first aperture to create the first tab and further punching a second aperture adjacent to create the second tab, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-9 and 13 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Prior Art***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

***Communication***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (571) 272-2037. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren E Schuberg can be reached on (571) 272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph Waks  
Primary Examiner  
Art Unit 2834

12/13/04